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MITIGATION PROJECT MEMORANDUM OF UNDERSTANDING

THIS MITIGATION PROJECT MEMORANDUM OF UNDERSTANDING ("Memorandum") is made and entered into this _____ day of December, 2017, by and between the STATE OF NORTH CAROLINA BY AND THROUGH THE OFFICE OF THE GOVERNOR and ATLANTIC COAST PIPELINE, LLC, a Delaware limited liability company of 120 Tredegar Street, Richmond, Virginia 23219 ("Atlantic").

WITNESSETH:

WHEREAS, Atlantic is proposing to construct the Atlantic Coast Pipeline ("ACP"), an underground natural gas transmission pipeline of approximately 600 miles from West Virginia, through Virginia, and ending in North Carolina; and

WHEREAS, the ACP will deliver up to 1.5 billion cubic feet per day of natural gas to meet the demand for electricity, natural gas distribution, and end use markets in North Carolina and Virginia; and

WHEREAS, the ACP will serve as a catalyst for economic development and job creation in North Carolina; and

WHEREAS, the ACP will promote and facilitate the recruitment of new industries to North Carolina; and

WHEREAS, the pipeline will generate approximately \$60,000,000 in local property tax revenue between 2018 and 2025; and

WHEREAS, the Federal Energy Regulatory Commission ("FERC") approved the ACP route on October 13, 2017, traversing eight counties in the State of North Carolina, and including a natural gas compressor station in Northampton County and other related facilities; and

WHEREAS, the ACP, access roads, and all associated aboveground facilities and contractor yards will result in total direct impacts of over 3,000 acres during construction and significantly reduced impacts during operation; and

WHEREAS, while the ACP has been routed to minimize disruptions to migratory birds and federally listed species by avoiding preferred habitats, including wetland areas, waterbodies and associated riparian vegetation to the fullest extent practicable, there remain unavoidable impacts to over 300 acres of interior forest habitats; and

WHEREAS, the ACP and access roads would cross approximately 320 waterbodies in North Carolina; and

WHEREAS, Atlantic has conducted open houses, participated in public meetings held by FERC and the North Carolina Department of Environmental Quality, and held individual

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information sessions with local governments, state-recognized Indian tribes, and other stakeholders along the route; and

WHEREAS, Atlantic recognizes that construction of the ACP and maintenance of the permanent right-of-way for the ACP may result in temporary and/or permanent impacts to the habitats upon which interior forest wildlife species depend; and

WHEREAS, Atlantic acknowledges that local communities, existing populations, and state-recognized Indian tribes have a significant interest in preserving their traditions, lifestyles, and quality of life; and

WHEREAS, Atlantic represents that it has taken and will take all reasonable measures to comply with North Carolina natural resources laws and to provide for the restoration and preservation of North Carolina interior forest wildlife habitats where the ACP will be constructed, operated, and maintained; and

WHEREAS, the Governor, through his agents and assigns, including, but not limited to the Department of Environmental Quality, Department of Commerce, Wildlife Resources Commission, and their respective leaders, has the authority to direct the disbursement of funds contemplated in this Memorandum of Understanding;

NOW, THEREFORE, the State of North Carolina and Atlantic (together, the "Parties") endeavor to do the following:

- 1) Atlantic commits to providing funding in the amount of \$55,000,000 to the State of North Carolina as set forth below. The funds will be deposited in an escrow account designated by a third party selected by the Governor of the State of North Carolina ("the Escrow Account"). The funds are being provided as (i) mitigation for the unavoidable effects of the ACP on the interior forest habitat, open-space lands, waterbodies, and natural resources of the communities along the ACP's route (ii) support and funding for economic development in the counties that would be impacted by the ACP; and (iii) extension of renewable energy projects into certain local communities which may stand to be affected by the ACP's operation. Fifty per cent of the \$55,000,000 will be deposited in the Escrow Account and made available for disbursement for environmental mitigation immediately following the issuance by the Federal Energy Regulatory Commission of a Final Notice to Proceed for the ACP. The remaining balance of funds shall be deposited in the Escrow Account no later than upon the date the ACP is placed into service. In the event that Atlantic terminates the project before it is placed into service, whether in the unanticipated event that the project fails to obtain and maintain the state approvals or any other necessary permits, certifications, consents, authorizations, and other approvals or for any other reason in Atlantic's sole discretion, the State of North Carolina shall deliver the proportionate share of the mitigation funds as preserved in accordance with this paragraph to Atlantic within thirty (30) days of receipt of written notice of termination from Atlantic. Such proportionate share to be returned to Atlantic shall be calculated based upon the number of miles of the pipeline route in North Carolina for which tree clearing and grubbing

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activity remains to be performed compared to the total number of miles of the pipeline route requiring such activities in North Carolina as part of the project.

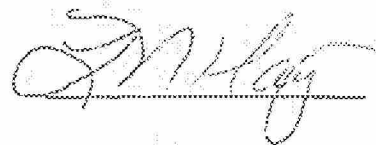
- 2) The State of North Carolina acknowledges that the funds are being provided for the purpose of (i) addressing the effects on the landscape, natural resources, interior forest habitat, agricultural lands and lifestyles of the communities caused by ACP, access roads and all associated aboveground facilities and contractor yards as described in the FERC Environmental Impact Statement; and (ii) expanding economic development opportunities and (iii) developing renewable energy projects in and around the ACP's route. The funds shall be allocated pursuant to the guidelines and directives set forth in a subsequent Executive Order that would be issued prior to the completion of state permitting for the ACP. Nothing in this Memorandum shall be construed as precluding or otherwise barring the State of North Carolina from recovering damages or equitable remedies from Atlantic for spills or leaks stemming from the ACP.
- 3) Nothing in this Memorandum shall be construed as affecting the authorities of any party or as binding them beyond their respective authorities or responsibilities.
- 4) The Memorandum does not create any right of action for a third party and may not be the basis of any third-party challenges or appeals. Nothing in this Memorandum shall be construed as precluding or otherwise barring independent, third-party claims regarding the ACP.
- 5) Nothing in this Memorandum is deemed to constitute a "settlement" as that term is defined by N.C. Gen. Stat. § 114-2.4A, nor does it require the payment of penalties or forfeitures and fines under N.C. Const. Art. IX § 7. Likewise, nothing in this Memorandum should be construed to be an admission of liability or wrongdoing by either Atlantic or the State of North Carolina its agents or assigns.

Signed:

William C. McKinney
General Counsel, Office of the
North Carolina Governor

Date:

Signed:



Leslie Hartz
Vice President-Engineering &
Construction - Strategic Projects

Date: 12/29/17

Two typos:

In Section 1, inserted a period at the end of the sentence that ends "ACP's operation".

In Section 2, deleted space between the word "route" and the period ending the sentence.
